AGREEMENT

by and between

ARMAND VAILLANCOURT

and the

SAN FRANCISCO REDEVELOPMENT AGENCY

GRAND FOUNTAIN SCULPTURE

AGREEMENT

THIS AGREEMENT entered into as of this _____ day of _____, 1967, by and between the REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, State of California, hereinafter referred to as the "Agency", and ARMAND VAILLANCOURT, an individual, with studios in Montreal, Quebec, Canada, hereinafter referred to as the "Contractor",

WITNESSETH THAT:

WHEREAS, on June 30, 1959, a Loan and Grant Contract became effective between the Agency and the United States of America, providing for financial aid to the Agency under Title I of the Housing Act of 1949, as amended; and

WHEREAS, pursuant to such Contract the Agency is undertaking certain activities necessary for the planning or execution of a Project, situated in the Project Area described below; and

WHEREAS, the Agency desires to engage the Contractor to render certain technical advice and assistance in connection with such undertaking of the Agency; and

WHEREAS, the Contractor has submitted to the Agency for its approval a model of a proposed sculpture for the Embarcadero Plaza Grand Fountain in the Embarcadero-Lower Market Redevelopment Project Area E-1; and

WHEREAS, said model was selected over four others submitted for consideration by the Agency, and said selection was approved by the San Francisco Art Commission, the Recreation and Park Commission, the Director of Public Works and the Agency; and

WHEREAS, final plans and specifications for the Embarcadero Plaza are being prepared for the Agency in accordance with the terms of an Agreement between the Agency and Lawrence Halprin and Associates, Landscape Architects, John S. Bolles, Architect, and Mario J. Ciampi, Architect, hereinafter referred to as the "Joint Venture"; and

WHEREAS, Agency and the City and County of San Francisco have, under date of December 7, 1966, entered into a Joint Working Agreement providing for payment of portions of the cost of the Embarcadero Plaza, including the Grand Fountain Sculpture, from funds to be provided by the City and County of San Francisco; and

WHEREAS, it is the intention of the Agency to proceed with the design and construction of the Grand Fountain Sculpture and that portion of the Embarcadero Plaza designated as "Ferry Park" in the Redevelopment Plan for the Embarcadero-Lower Market Redevelopment Project Area E-1, as amended;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Scope of Services. The Contractor shall perform all the necessary services provided under this Contract in connection with and respecting the following Project Area:

EMBARCADERO-LOWER MARKET APPROVED
REDEVELOPMENT PROJECT AREA E-1

and shall do, perform, and carry out, in a satisfactory and proper manner, as determined by the Agency, the following:

a) Design Research Phase. The Contractor shall research the various elements of the proposed design including but not necessarily limited to the following: sculpture materials, concrete, metal, glass,

finishes and forming; water, volumes, pressures, sounds, timing and sequences; equipment, pumps, jets and orifices, valves and controls; lighting, fixtures, effects, timing, sequences, and controls.

b) Design Development Phase. The Contractor shall prepare material that may include, but not necessarily be limited to the following, in sufficient detail so as to fully describe the work and its operation and to form the basis for a definitive cost estimate: drawings, plans elevations, perspectives and sections; models and/or model segments or sections; descriptions of materials, finishes, operations and equipment.

The Contractor shall work with the Joint Venture in order to coordinate the design and adapt the Grand Fountain Sculpture to the Embarcadero Plaza.

c) Construction Documents. The Contractor shall prepare final working drawings, specifications and, as necessary, models, for integration into the construction documents for the Embarcadero Plaza. These documents are to clearly define work to be performed by the General Contractor for the Embarcadero Plaza and work to be reserved for execution by others. The Contractor shall work with the Joint Venture in coordination and final preparation of all construction documents insofar as they affect the Grand Fountain Sculpture.

2. Within one hundred fifty (150) calendar days after the issuance of a written notice to proceed by the Agency, the Contractor shall furnish eight (8) sets of final plans and final cost estimates and two (2) drafts of proposed technical specifications for review by the Agency and appropriate City departments.

3. Within thirty (30) calendar days after all necessary approvals have been obtained for said final plans, the Contractor shall make necessary corrections and shall deliver to the Agency a complete set of contract plans, prepared on tracing paper, and a complete set of typewritten stencils of technical specifications, with the content arranged in a form suitable for inclusion in a contract document to be prepared by the Agency. The Contractor shall furnish a list of contract bid items, together with estimated quantities and lump sum or unit prices, as applicable, of such items. The total amount derived from such quantities and prices shall form the estimate of the contract construction cost.

4. Time is of the essence of this contract, and the Contractor shall prosecute the work diligently and continuously, or failing this, the Agency shall have the right to terminate this Agreement; to take the Contractor's work, insofar as it is complete and acceptable to the Agency and pay the Contractor for such completed work in accordance with the proportionate amount of services performed by the Contractor prior to the termination of this Agreement.

5. The Agency shall pay to the Contractor, in full compensation for all services rendered under the provisions of this Agreement, a fee of Eighteen Thousand Dollars ($18,000.00). This fee paid to the Contractor shall constitute full payment by the Agency for all services performed, including but not limited to architectural, engineering, drafting, clerical, materials and equipment for models, and overhead costs such as rent, telephone, insurance policies, freight, travel, supplies, printing, accounting and equipment.

6. It is understood that the compensation set forth in this Agreement is not eligible as a project cost under Title I of the Housing Act of 1949 and Regulations of the Department of Housing and Urban Development made pursuant thereto, and such compensation shall be paid by the Agency from funds to be provided by the City and County of San Francisco pursuant to the Joint Working Agreement described in the foregoing recitals.

7. Within fifteen (15) calendar days following the execution of this Agreement the Contractor shall be paid Seven Thousand Five Hundred Dollars ($7,500.00) of the fee provided for in Section 5 hereof.

Upon delivery of the final model, plans, estimates and specifications to the Agency, as set forth in Section 1(c) above, the Contractor shall be paid an additional Seven Thousand Five Hundred Dollars ($7,500.00) of the fee provided for in Section 5 hereof.

8. The remaining Three Thousand Dollars ($3,000.00) of the fee contemplated in Section 5 hereof, shall be paid to the Contractor upon completion and acceptance by the Agency of all work under this Agreement and receipt of a satisfactory bid for construction of the Grand Fountain Sculpture.

9. In the event that the Agency fails, within one hundred twenty (120) calendar days after the date of submission, to approve the final plans or to indicate desired changes therein, or in the event the Agency fails, within ninety (90) calendar days after the approval of such plans to initiate a call for bids on the construction contract, in either case, the Contractor shall have the right to terminate this Agreement without obligation on the part of the Agency to render compensation for work under the

Agreement not yet performed and without liability on the part of the Agency by reason of the termination of this Agreement.

10. In the event the Agency calls for and receives bids for the construction work and the bid of the lowest responsible bidder exceeds the approved estimated construction cost for the work by more than ten percent (10%), the Contractor, at the request of the Agency, shall revise the plans and specifications at no additional cost to the Agency, in order to achieve a construction cost which does not exceed ten percent (10%) of the approved estimate.

11. In the event the Agency elects to proceed with the construction of the Grand Fountain Sculpture even though the accepted total bid price exceeds the approved estimate by more than ten percent (10%), the Contractor's fee shall not be increased.

12. In the event of the abandonment of the work or any part of the work prior to the approval of the final plans, the Contractor shall be paid a portion of the applicable fee for final plans, based on the percentage, as determined by the Agency, of the work performed by the Contractor. Upon payment therefor all uncompleted work shall become and be the property of the Agency.

13. In the event of any disputes regarding the percentage of work completed arising as a result of any abandonment of work under Section 12, the matter shall be referred to a Board of Arbitration consisting of three (3) persons, one of whom shall be appointed by the Contractor, one by the Agency, and the third by the other two members; the decision of the majority of the Board shall be final and binding upon the parties to this Agreement.

14. The Contractor shall not assign or sublet or transfer his interest in this Agreement without the written approval of the Agency.

15. No compensation shall be paid to the Contractor by the Agency for normal, routine local travel required by reason of the performance of the work. No allowance for any other travel shall be made unless specifically approved in advance in writing by the Agency.

16. During the performance of services hereunder, the Contractor shall carry Workmen's Compensation Insurance as required by law of the jurisdiction in which the work is performed, including extra-territorial liability, covering employees under this Agreement.

Prior to the performance of the services hereunder the Contractor shall furnish the Agency satisfactory evidence that the foregoing insurance is in effect.

17. The Contractor shall defend and indemnify and hold the Agency and the City harmless from all costs, damages or expenses arising out of any charge or encumbrances in the nature of a labor, mechanics, or materialmen's lien in connection with the services performed hereunder by the Contractor or by his subcontractors.

18. The Contractor hereby declares that he is engaged in an independent business and agrees to perform said services as an independent contractor and not as the agent or employee of the Agency. The Contractor has and hereby retains the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting him in the performance of his services hereunder. The Contractor agrees to be solely responsible for all matters relating to payment of employees, including compliance with Social

Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for his own acts and those of his subordinates and employees during the life of this Agreement.

19. In case of the demise of the Contractor during the time of performance, this Agreement may immediately be terminated by the Agency, and the Agency shall be liable only to the extent of the unpaid reasonable value of the actual work performed by the Contractor.

20. The effective date of this Agreement shall be _____, 1967.

21. For the purpose of this Agreement, the estimated construction cost of the Grand Fountain Sculpture is Eighty Thousand Dollars ($80,000.00).

22. This Agreement is subject to and incorporates the provisions attached hereto as PART II - TERMS AND CONDITIONS.

23. Where applicable, not less than the respective salaries prevailing in the locality as determined pursuant to the attached "Determination of Prevailing Salaries and Technical Positions" shall be paid to persons in the respective occupations listed therein employed in the performance of work under this Contract.

24. The Contractor shall furnish to the Agency with his statement submitted for services rendered certifications as to compliance with Section 23 of this Agreement when applicable, and a similar certification of his subcontractors with respect to employees engaged in work under this Contract.

IN WITNESS WHEREOF the Agency and the Contractor have executed this Agreement as of the date first above written.

REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

Attest:

By _____
Robert L. Rumsey
Secretary

By _____
M. Justin Herman
Executive Director

ARMAND VAILLANCOURT

_____

Approved as to form
and legal adequacy:

_____
Henry F. Davis
Agency General Counsel

H-647
(11-56)

HOUSING AND HOME FINANCE AGENCY
URBAN RENEWAL ADMINISTRATION

EXHIBIT A

DETERMINATION OF PREVAILING SALARIES OF TECHNICAL POSITIONS

LOCAL PUBLIC AGENCY Francisco Redevelopment Agency	C. LOCALITY OF PROJECTS San Francisco
OF LOCAL PUBLIC AGENCY Golden Gate Avenue Francisco, California	

CRIPTION OF LOYMENT	PREVAILING SALARIES DETERMINED BY ADMINISTRATOR: REGULAR RATE	PER TIME PERIOD*	OVERTIME RATE	PER TIME PERIOD*		CLASSIFICATION OF EMPLOYMENT	PREVAILING SALARIES DETERMINED BY ADMINISTRATOR: REGULAR RATE	PER TIME PERIOD*	OVERTIME RATE	PER TIME PERIOD*
(3)	4.40				13	Draftsman (3)	4.40			
(2)	4.25				14	Draftsman (2)	3.50			
(1)	4.00				15	Draftsman (1)	3.85			
(3) P	5.50				16	Chief of Party (Surveying)	5.69			
(2)	4.50				17	Instrumentman	5.25			
(1)	3.875				18	Rodman =Rear Chainman	4.69			
(3)	5.00				19	Chainman Rear	4.39			
(2)	4.25				20					
(1)	4.00				21					
(3)	4.25				22					
(2)	4.00				23					
(1)	3.75				24					

*Designated by "Y", Month by "M", Week by "W", and Hour by "H".

The rates indicated above are determined to be the salary rates prevailing in the above locality for the above classifications of architects, technical engineers, draftsmen, and technicians employed in the development of Title I projects.

In order to fulfill the provisions of the contract or contracts for Title I financial assistance you must require the payment of not less than the salaries prevailing in the locality as herein determined, to the technical personnel employed in the development of the aforementioned Title I projects as are within the scope of the determination. This determination supersedes all previous determinations.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

MAR 27 1967
Date

By Richard C. Rutherford
Asst.Reg. Admin.for Renewal Assistance

FHLBB-Washington, D. C.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
URBAN RENEWAL PROGRAM

HUD-621B
(5-66)

CONTRACT FOR PROFESSIONAL OR TECHNICAL SERVICES

- -

PART II--TERMS AND CONDITIONS

1. Termination of Contract for Cause. If, through any cause, the Contractor shall fail to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the Local Public Agency shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Contractor under this Contract shall, at the option of the Local Public Agency, become its property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Local Public Agency for damages sustained by the Local Public Agency by virtue of any breach of the Contract by the Contractor, and the Local Public Agency may withhold any payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Local Public Agency from the Contractor is determined.

2. Termination for Convenience of Local Public Agency. The Local Public Agency may terminate this Contract any time by a notice in writing from the Local Public Agency to the Contractor. If the Contract is terminated by the Local Public Agency as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made: Provided, however, that if less than sixty per cent of the services covered by this Contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract. If this Contract is terminated due to the fault of the Contractor, Section 1 hereof relative to termination shall apply.

3. Changes. The Local Public Agency may, from time to time, request changes in the scope of the services of the Contractor to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Local Public Agency and the Contractor, shall be incorporated in written amendments to this Contract.

4. Personnel. a. The Contractor represents that he has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Local Public Agency.

b. All the services required hereunder will be performed by the Contractor or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.

c. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

5. Anti-Kickback Rules. Salaries of architects, draftsmen, technical engineers, and technicians performing work under this Contract shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; title 18 U.S.C., section 874; and title 40 U.S.C., section 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Contract to insure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

6. Withholding of Salaries. If, in the performance of this Contract, there is any underpayment of salaries by the Contractor or by any subcontractor thereunder, the Local Public Agency shall withhold from the Contractor out of payments due to him an amount sufficient to pay to employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the Local Public Agency for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

7. Claims and Disputes Pertaining to Salary Rates. Claims and disputes pertaining to salary rates or to classifications of architects, draftsmen, technical engineers, and technicians performing work under this Contract shall be promptly reported in writing by the Contractor to the Local Public Agency for the latter's decision which shall be final with respect thereto.

8. Equal Employment Opportunity. During the performance of this Contract, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Local Public Agency setting forth the provisions of this nondiscrimination clause.

b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

c. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

9. Discrimination Because of Certain Labor Matters. No person employed on the work covered by this Contract shall be discharged or in any way discriminated against because he has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his employer.

10. Compliance With Local Laws. The Contractor shall comply with all applicable laws, ordinances, and codes of the State and local governments, and shall commit no trespass on any public or private property in performing any of the work embraced by this Contract.

11. Subcontracting. None of the services covered by this Contract shall be subcontracted without the prior written consent of the Local Public Agency. The Contractor shall be as fully responsible to the Local Public Agency for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him. The Contractor shall insert in each subcontract appropriate provisions requiring compliance with the labor standards provisions of this Contract.

12. Assignability. The Contractor shall not assign any interest in this Contract, and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of the Local Public Agency: Provided, however, that claims for money due or to become due the Contractor from the Local Public Agency under this Contract may be assigned to a bank, trust company, or other financial institution, or to a Trustee in Bankruptcy, without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Local Public Agency.

13. Interest of Members of Local Public Agency. No member of the governing body of the Local Public Agency, and no other officer, employee, or agent of the Local Public Agency who exercises any functions or responsibilities in connection with the carrying out of the Project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

14. Interest of Other Local Public Officials. No member of the governing body of the locality in which the Project Area is situated, and no other public official of such locality, who exercises any functions or responsibilities in the review or approval of the carrying out of the Project to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

15. Interest of Certain Federal Officials. No member of or Delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit to arise therefrom.

16. Interest of Contractor. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the above-described Project Area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed.

17. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this Contract are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the Local Public Agency.

ATTACHMENT TO

PART II OF GENERAL CONDITIONS

SO-CALLED "ANTI-KICKBACK ACT" AND REGULATIONS PROMULGATED PURSUANT THERETO BY THE SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR

TITLE 18, U.S.C., section 874

(Replaces section 1 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C., sec. 276b) pursuant to the Act of June 25, 1948, 62 Stat. 862)

KICKBACKS FROM PUBLIC WORKS EMPLOYEES

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SECTION 2 OF THE ACT OF JUNE 13, 1934, AS AMENDED (48 Stat. 948, 62 Stat. 862, 63 Stat. 108, 72 Stat. 967, 40 U.S.C., sec. 276c)

The Secretary of Labor shall make reasonable regulations for contractors and subcontractors engaged in the construction, prosecution, completion or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States, including a provision that each contractor and subcontractor shall furnish weekly a statement with respect to the wages paid each employee during the preceding week. Section 1001 of Title 18 (United States Code) shall apply to such statements.

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Pursuant to the aforesaid Anti-Kickback Act, the Secretary of Labor, United States Department of Labor, has promulgated the regulations hereinafter set forth, which regulations are found in Title 29, Subtitle A, Code of Federal Regulations, Part 3. The term, "this part," as used in the regulations hereinafter set forth, refers to Part 3 last above mentioned. Said regulations are as follows:

Sec. 3.10 Methods of payment of wages.

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this part. No other methods of payment shall be recognized as work subject to the Copeland Act.

Sec. 3.11 Regulations part of contract.

All contracts made with respect to the construction, prosecution, completion, or repair of any public building or public work or building or work financed in whole or in part by loans or grants from the United States covered by the regulations in this part shall expressly bind the contractor or subcontractor to comply with such of the regulations in this part as may be applicable. In this regard, see Sec. 5.5(a) of this subtitle.

W. Willard Wirtz,

Secretary of Labor.

CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING AND PUBLIC WORK AND ON BUILDING AND WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

Sec. 3.1 Purpose and scope.

This part prescribes "anti-kickback" regulations under section 2 of the ct of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the opeland Act. This part applies to any contract which is subject to Federal age standards and which is for the construction, prosecution, completion, or epair of public buildings, public works or buildings or works financed in hole or in part by loans or grants from the United States. The part is tended to aid in the enforcement of the minimum wage provisions of the avis-Bacon Act and the various statutes dealing with Federally-assisted onstruction that contain similar minimum wage provisions, including those rovisions which are not subject to Reorganization Plan No. 14 (e.g., the ollege Housing Act of 1950, the Federal Water Pollution Control Act, and he Housing Act of 1959), and in the enforcement of the overtime provisions f the Contract Work Hours Standards Act whenever they are applicable to onstruction work. The part details the obligation of contractors and ubcontractors relative to the weekly submission of statements regarding the ages paid on work covered thereby; sets forth the circumstances and rocedures governing the making of payroll deductions from the wages of hose employed on such work; and delineates the methods of payment permissible n such work.

Sec. 3.2 Definitions.

As used in the regulations in this part:

(a) The terms "building" or "work" generally include construction activity s distinguished from manufacturing, furnishing of materials, or servicing and aintenance work. The terms include, without limitation, buildings, structures, nd improvements of all types, such as bridges, dams, plants, highways, arkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, ailways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, etties, breakwaters, levees, and canals; dredging, shoring, scaffolding, rilling, blasting, excavating, clearing, and landscaping. Unless conducted in onnection with and at the site of such a building or work as is described in he foregoing sentence, the manufacture or furnishing of materials, articles, upplies, or equipment (whether or not a Federal or State agency acquires itle to such materials, articles, supplies, or equipment during the course f the manufacture or furnishing, or owns the materials from which they are anufactured or furnished) is not a "building" or "work" within the meaning f the regulations in this part.

(b) The terms "construction," "prosecution," "completion," or "repair" ean all types of work done on a particular building or work at the site hereof, including, without limitation, altering, remodeling, painting and ecorating, the transporting of materials and supplies to or from the uilding or work by the employees of the construction contractor or onstruction subcontractor, and the manufacturing or furnishing of materials, rticles, supplies, or equipment on the site of the building or work, by ersons employed at the site by the contractor or subcontractor.

(c) The terms "public building" or "public work" include building or work for whose construction, prosecution, completion, or repair, as defined above, a Federal agency is a contracting party, regardless of whether title thereof is in a Federal agency.

(d) The term "building or work financed in whole or in part by loans or grants from the United States" includes building or work for whose construction, prosecution, completion, or repair, as defined above, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to land guarantees or insurance.

(e) Every person paid by a contractor or subcontractor in any manner for his labor in the construction, prosecution, completion, or repair of a public building or public work or building or work financed in whole or in part by loans or grants from the United States is "employed" and receiving "wages," regardless of any contractual relationship alleged to exist between him and the real employer.

(f) The term "any affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner or officer of the contractor or subcontractor; a corporation closely connected with the contractor or subcontractor as parent, subsidiary, or otherwise, and an officer or agent of such corporation.

(g) The term "Federal agency" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or any of the foregoing departments, establishments, agencies, and instrumentalities.

Sec. 3.3 Weekly statement with respect to payment of wages.

(a) As used in this section, the term "employee" shall not apply to persons in classifications higher than that of laborer or mechanic and those who are the immediate supervisors of such employees.

(b) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by these regulations during the preceding weekly payroll period. The statement shall be executed by the contractor or subcontractor or by an authorized officer or employee of the contractor or subcontractor who supervises the payment of wages, and shall be in the following form:

WEEKLY STATEMENT OF COMPLIANCE

_____, 19__

I, _____ (Name of signatory party), _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ (Contractor or subcontractor) on the _____ (Building or work); that during the payroll period commencing on the _____ day of _____, 19__, and ending on the _____ day of _____, 19__, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ (Contractor or subcontractor) from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Part 3), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 537; 40 U.S.C. 276c), and described below:

(Paragraph describing deductions, if any)

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the [Bureau of Apprenticeship and Training,] United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

_____ (Signature and title)

Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statement as provided at 72 Stat. 967 (18 U.S.C. 1001), among other things, provides that whoever knowingly and willfully makes or uses a document or fraudulent statement of entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both).

(c) The requirements of this section shall not apply to any contract of $2,000 or less.

(d) Upon a written finding by the head of a Federal agency, the Secr of Labor may provide reasonable limitations, variations, tolerances, and exemptions from the requirements of this section subject to such condition as the Secretary of Labor may specify.

Sec. 3.4 Submission of weekly statements and the preservation and inspection of weekly payroll records.

(a) Each weekly statement required under Sec. 3.3 shall be delivered the contractor or subcontractor, within seven days after the regular payme date of the payroll period, to a representative of a Federal or State agen in charge at the site of the building or work, or, if there is no representative of a Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within such time, to a Federal or State agency contracting for or financing the building or work. After such examination and check as may be made, suc statement, or a copy thereof, shall be kept available, or shall be transmit together with a report of any violation, in accordance with applicable procedures prescribed by the United States Department of Labor.

(b) Each contractor or subcontractor shall preserve his weekly payroll records for a period of three years from date of completion of the contract. The payroll records shall set out accurately and completely the name and address of each laborer and mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made, and actual wages paid. Such payroll records shall be made available at all times for inspection by the contracting officer or his authorized representative, and by authorized representatives of the Department of Labor.

Sec. 3.5 Payroll deductions permissible without application to or approval of the Secretary of Labor.

Deductions made under the circumstances or in the situations described in the paragraphs of this section may be made without application to and approval of the Secretary of Labor:

(a) Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.

(b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of the advanced funds.

(c) Any deduction of amounts required by court process to be paid to another, unless, the deduction is in favor of the contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.

(d) Upon a written finding by the head of a Federal agency, the Secretary of Labor may provide reasonable limitations, variations, tolerances, and exemptions from the requirements of this section subject to such conditions as the Secretary of Labor may specify.

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(c) Any deduction of amounts required by court process to be paid to another, unless, the deduction is in favor of the contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.

(d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities or retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, That the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.

(e) Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.

(f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.

(h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.

(i) Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, That a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.

(j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 531 of this title. When such a deduction is made the additional records required under Sec. 516.25(a) of this title shall be kept.

Sec. 3.6 Payroll deductions permissible with the approval of the Secretary of Labor.

Any contractor or subcontractor may apply to the Secretary of Labor for permission to make any deduction not permitted under Sec. 3.5. The Secretary may grant permission whenever he finds that:

(a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend, or otherwise;

(b) The deduction is not otherwise prohibited by law;

(c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and

(d) The deduction serves the convenience and interest of the employee.

Sec. 3.7 Applications for the approval of the Secretary of Labor.

Any application for the making of payroll deductions under Sec. 3.6 shall comply with the requirements prescribed in the following paragraphs of this section:

(a) The application shall be in writing and shall be addressed to the Secretary of Labor.

(b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.

(c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of Sec. 3.6. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

(d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.

(e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted and the affiliation of such person, if any, with the applicant.

Sec. 3.8 Action by the Secretary of Labor upon applications.

The Secretary of Labor shall decide whether or not the requested deduction is permissible under provisions of Sec. 3.6; and shall notify the applicant in writing of his decision.

Sec. 3.9 Prohibited payroll deductions.

Deductions not elsewhere provided for by this part and which are not found to be permissible under Sec. 3.6 are prohibited.